

What is Arbitration?



Workplace Injury Commission

What is arbitration?

Arbitration is a service we offer which provides a final decision for workers compensation disputes that have not resolved through conciliation.

It is an alternative to going to court and aims to provide an informal, timely and inexpensive way to finalise a dispute.

At arbitration, an independent Arbitration Officer:

- Holds a hearing to consider the issues in dispute, hear the evidence and each parties' views, and then
- Makes a final decision that all parties must follow (called a 'determination').

Arbitration is separate from and different to conciliation.

Who are the parties to a dispute at arbitration?

The parties are: the Worker, the WorkSafe Agent or Self-insurer and the Employer. We sometimes refer to Workers as 'Claimants'.

An Employer either has a WorkSafe Agent to conduct arbitration on their behalf or can conduct the arbitration themselves if they are a Self-insurer.

Who requests arbitration?

The Worker is the only party who can choose whether to take their dispute to arbitration. If they choose arbitration, they may not take their dispute to court at the same time.

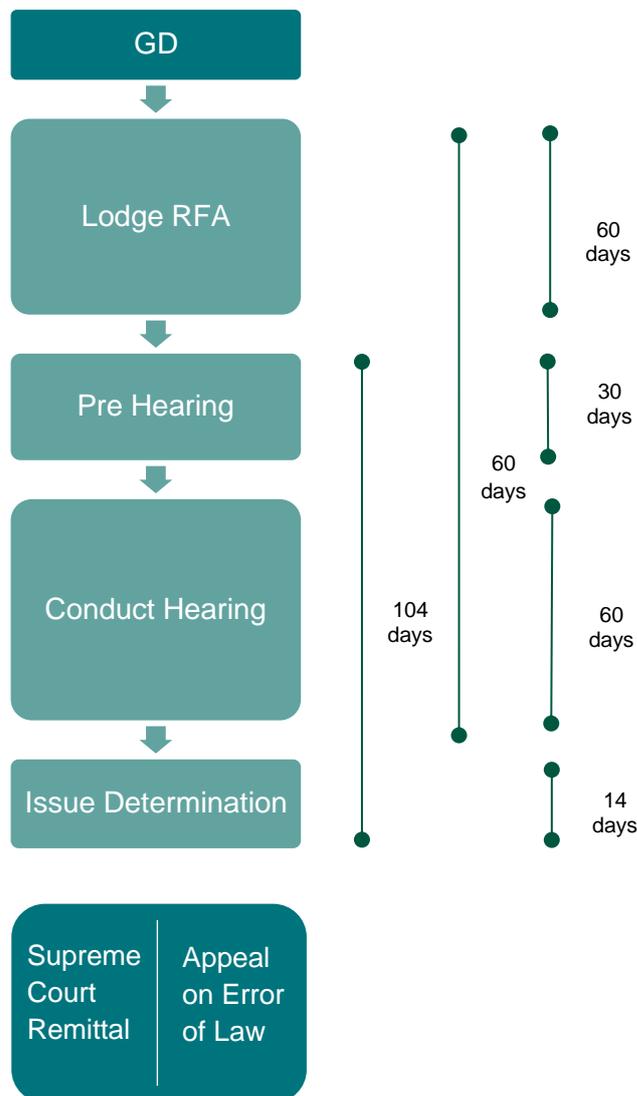
Arbitration is a process (other than the court process) in which parties to a workers compensation dispute present arguments and evidence to an Arbitration Officer, who makes a binding determination.

Arbitration is available to eligible claimants to resolve disputes about compensation entitlements that have not resolved through conciliation. Arbitration aims to be an informal,

What disputes can be arbitrated?

We can arbitrate disputes in relation to:

- Weekly payments
- Medical and like expenses, such as surgery, physiotherapy or home help
- Provisional payments
- Superannuation contributions
- Interest on an outstanding amount





What disputes can be arbitrated?

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- Superannuation contributions
- Interest on an outstanding amount

What disputes cannot be arbitrated?

We cannot arbitrate disputes about:

- Access to Information requests
- Impairment benefits claims
- Return to work arrangements
- Agreements reached at conciliation or arbitration
- Medical Panel Opinions
- A decision not to accept an application for conciliation or a referral for arbitration
- An issue that was previously finalised by a court or arbitrated
- Injuries that happened before 1 September 2022
- An injury outside of the Victorian Workers Compensation scheme

For more information, see our *Referral for Arbitration Policy and Procedure* on our website www.wic.vic.gov.au/resources.

How does an arbitration start?

We need to receive a *Referral for Arbitration*

Form from the Injured Worker. We call this 'lodgement of the referral for arbitration'.

We must receive the form within 60 days of them receiving a Genuine Dispute Certificate from conciliation, unless we allow late lodgement or an extension of time.

What happens after we receive a referral?

After we receive a referral for arbitration, we decide whether we can accept it.

If we can, we will advise the parties. We must then hold an initial hearing within 30 days, and finish any further hearings within 60 days after that. When the hearing process ends, we must make a final decision within 14 days.

What types of decisions can we make?

We can:

- Decide that the WorkSafe Agent's or Self-insurer's decision is correct
- Change or cancel a WorkSafe Agent's or Self-insurer's decision
- Decide that the WorkSafe Agent or Self-insurer must pay up to 52 weeks of weekly payments and up to \$20,000 in medical and like expenses
- Decide that the WorkSafe Agent or Self-insurer must accept all or part of a claim
- Can order the WorkSafe Agent or Self-insurer to calculate the amount of compensation to pay

Is there a fee to start arbitration?

No. There is no fee to lodge a referral for



arbitration.

During arbitration, however, the parties must pay their own costs (such as for medical reports or legal fees).

If a Worker is successful at arbitration, the WorkSafe Agent or Self-insurer will have to pay their costs. If the Worker is not successful, they don't normally have to pay the WorkSafe Agent's or Self-insurer's costs.

For more information, see our *Costs Fact Sheet* on our website

www.wic.vic.gov.au/resources.

Can parties be represented?

A representative may assist a party at arbitration, such as by receiving documents from us, attending a hearing and putting their arguments in writing. A representative may or may not be a lawyer. If the representative is a lawyer, they need our permission to attend a hearing.

For more information, see our *Representation at Arbitration Fact Sheet* on our website

www.wic.vic.gov.au/resources.

What if a party disagrees with a final decision?

If any party disagrees with the final decision, they have 28 days to lodge an appeal to the Supreme Court. An appeal can only be made if a decision is legally wrong.

For more information, see our *Appealing an Arbitration Determination Fact Sheet* on our website www.wic.vic.gov.au/resources.

Need help?

For more information or assistance, please:

- call **03 9940 1111** or **1800 635 960**
- email **info@wic.vic.gov.au**
- visit **wic.vic.gov.au**



Do you need an interpreter?



If you cannot understand this form please contact 131 450. Ask the interpreter to contact the Workplace Injury Commission on 1800 635 960 or 03 9940 1111 to explain this form.

على الرقم 1800635960 أو WIC إذا لم تستطع فهم هذا النموذج، فيرجى الاتصال بـ 131450. اطلب من المترجم الاتصال بـ 99401111 03 لشرح هذا النموذج.

如果您看不懂这份表格，请拨打 131 450，要求口译员帮忙联系 WIC 来解释此表格，电话 1800 635 960 或 03 9940 1111。

Ako ne razumijete ovaj obrazac, kontaktirajte 131 450. Zamolite tumača da vam nazovu WIC na 1800 635 960 ili 03 9940 1111 kako bi vam se objasnilo za što služi ovaj obrazac.

Αν δεν μπορείτε να καταλάβετε αυτό το έντυπο παρακαλώ επικοινωνήστε με το 131 450. Ζητήστε από τον διερμηνέα να επικοινωνήσει με το WIC στο 1800 635 960 ή 03 9940 1111 για να εξηγήσει αυτό το έντυπο.

Se non riesci a capire questo modulo, contatta il 131 450. Chiedi all'interprete di contattare WIC al 1800 635 960 oppure al 03 9940 1111 per spiegarti questo modulo.

Ако не го разбирате овој формулар, ве молиме јавете се на 131 450. Побарајте од преведувачот да се јави на WIC на 1800 635 960 или на 03 9940 1111 за да ви го објаснат овој формулар.

Jeśli nie rozumiesz tego formularza, zadzwoń pod numer 131 450. Poproś tłumacza o skontaktowanie się z WIC pod numerem 1800 635 960 lub 03 9940 1111 w celu uzyskania wyjaśnienia.

Ако не разумете овај образац, контактирајте 131 450. Замолисте преводиоца да вам назову WIC на 1800 635 960 или (03) 9940 1111 да би вам се објаснило за шта служи овај образац.

Si no puede comprender este formulario, comuníquese con el 131 450. Pida que el intérprete se ponga en contacto con WIC llamando al 1800 635 960 o al 03 9940 1111 para explicar este formulario

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Nếu quý vị không hiểu mẫu này, xin gọi 131 450. Yêu cầu thông dịch viên liên lạc WIC qua số 1800 635 960 hoặc (03) 9940 1111 để giải thích về mẫu này.